

Exhibit A

21 June 2023

Masimo W1™ - Advanced Health Tracking Watch

<https://www.masimopersonalhealth.com/products/masimo-w1>

PROFESSIONAL HEALTH

CONSUMER HEALTH

CONSUMER AUDIO

PRODUCTS ▾

WHY MASIMO ▾

SUPPORT ▾

SHOP NOW ▾

LOGIN



Masimo W1™ - Advanced Health Tracking Watch

Masimo
Health App

Masimo W1™

Advanced Health Tracking Watch

★★★★☆ 11 Reviews

\$499.00 3-year warranty

Masimo W1 is a comfortable and convenient wearable device that continuously tracks key health data.

Select Your Personal SafetyNet Service Membership

Monthly



Annually

Basic

\$7.99

per month

See membership details

CHOOSE

Advanced

\$18.99

per month

See membership details

CHOOSE

Add to Cart



MASIMO FREEDOM™

Your purchase of Masimo W1 also includes \$400 off a Masimo Freedom Smartwatch, launching Fall 2023

[Learn More >](#)

Health and Wellness On the Wrist

The first of its kind, the Masimo W1 offers accurate, continuous health data and actionable health insights – from the leader in hospital pulse oximetry – in a personal, lifestyle-friendly watch. Building on Masimo's decades of leadership in creating revolutionary noninvasive blood parameter monitoring solutions, Masimo W1 provides a variety of physiological data – including for the first time Hydration Index (Hi) alongside oxygen level (SpO2),* pulse rate, pulse rate variability, heart rate, respiration rate, pleth variability index, and perfusion index – for consumers wanting to make better informed health and lifestyle decisions, improve their fitness, or track their health data on their own or with friends and family.



21 June 2023
Masimo W1™ - Advanced Health Tracking Watch
<https://www.masimopersonalhealth.com/products/masimo-w1>



Health Data That's Always There

Giving you the power to access your health data immediately

The Watch You Sleep With

True 24/7 continuous health data that tracks with your activities day and night, so nothing is missed



Keep Pace and Reach New Heights

Optimize your performance and get in tune with how your body reacts

Maximize Your Rest, Refresh Your Health

With the Masimo SafetyNet service we provide you the information that matters in the Sleep Report with an option to have your sleep report reviewed by a certified clinician



Exhibit B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1377-MN

MASIMO CORPORATION,

Counter-Claimant,

v.

APPLE INC.

Counter-Defendant.

**PLAINTIFF APPLE INC.'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF
DOCUMENTS AND THINGS (NOS. 1-27)**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, and the Local Rules of the United States District Court for the District of Delaware, Plaintiff Apple Inc. hereby requests that Defendants Masimo Corporation and Sound United, LLC produce the documents and things requested below for inspection, copying, testing, and/or sampling in accordance with the Definitions and Instructions below. The requested documents and things must be produced within thirty (30) days of the service of these requests, or at such other time as may be mutually agreed upon in writing by counsel for the parties. Documents should be produced at the law offices of Desmarais LLP, 230 Park Avenue, New York, New York, 10169.

REQUEST FOR PRODUCTION NO. 24:

Documents sufficient to describe fully the relationship between Defendants, including documents sufficient to show:

- (a) The corporate ownership of Defendants;
- (b) Any Defendant's ability to formulate, direct, or control any other Defendant's operations, management, or policies;
- (c) All support Defendants provide to each other, including any financing, capital assets, intellectual property assets, technical, engineering, or research and development support;
- (d) The ownership structure of any intellectual property shared between Defendants;
- (e) The percentage of each Defendant's revenue shared with any other Defendant;
- (f) Any directors, officers, and managers that are common between any Defendants;
- (g) Any shareholder meetings, board meetings, or business departments jointly held by any of the Defendants;
- (h) Any tax filings jointly filed by any of the Defendants.

REQUEST FOR PRODUCTION NO. 25:

All documents relating to the subject matter of any interrogatory propounded by Apple in this Action, including all documents referred to, reviewed, or relied upon in preparing Defendant's interrogatory responses.

REQUEST FOR PRODUCTION NO. 26:

Three (3) physical products for each Accused Product in the condition that it is currently provided commercially to customers, laboratories, and/or healthcare providers.

REQUEST FOR PRODUCTION NO. 27:

All documents and communications reflecting any similarities or differences between the design of the Masimo W1 watch and any other past, present, or future Masimo watch, including without limitation the Masimo Freedom watch and/or the Masimo B1 watch.

Dated: February 15, 2023

Respectfully submitted,
POTTER ANDERSON & CORROON LLP

OF COUNSEL:

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Attorneys for Plaintiff Apple Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February, 2023, a true and correct copy of the foregoing PLAINTIFF APPLE INC.'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS (NOS. 1-27) was served by electronic mail on counsel for Defendants as follows:

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Exhibit C

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,)	
)	
Plaintiff,)	
	)	C.A. No. 22-1377-MN-JLH
v.)	
	)	JURY TRIAL DEMANDED
MASIMO CORPORATION and)	
SOUND UNITED, LLC,)	
)	
Defendants.)	
)	
<hr style="width: 45%; margin-left: 0;"/>		
MASIMO CORPORATION,)	
)	
Counter-Claimant,)	
)	
v.)	
)	
APPLE INC.,)	
)	
Counter-Defendant.)	

APPLE’S PRELIMINARY INFRINGEMENT CONTENTIONS

Pursuant to the Court’s Scheduling Order (D.I. 103), Plaintiff Apple Inc. (“Apple”) hereby serves its Preliminary Infringement Contentions on Defendants Masimo Corporation and Sound United, LLC (collectively, “Masimo”).

Apple expressly reserves the right, consistent with its obligations under the Federal Rules of Civil Procedure, the Local Rules, and the Court’s Scheduling Order, to amend its infringement contentions to assert additional patents and/or claims, accuse additional products, and update its infringement theories as additional evidence and information becomes available or as otherwise appropriate. Apple further reserves the right to supplement its infringement contentions, including its doctrine of equivalents contentions, in response to any non-infringement or other contentions provided by Masimo.

A. Asserted Claims

Apple contends that Masimo, either alone or in conjunction with others, has infringed and continues to infringe, literally and/or under the doctrine of equivalents, the claims of United States Patent Nos. D883,279 (the “D’279 Patent”); D947,842 (the “D’842 Patent”); D962,936 (the “D’936 Patent”); and D735,131 (the “D’131 Patent”) (collectively the “Patents-in-Suit”).

<u>Patent</u>	<u>Asserted Claim</u>
U.S. Patent No. D883,279	1
U.S. Patent No. D947,842	1
U.S. Patent No. D962,936	1
U.S. Patent No. D735,131	1

B. Accused Products

The following list of Accused Products is based on information that Apple has at this stage of the litigation. Apple thus reserves the right to revise and to supplement this list as discovery progresses. Apple anticipates supplementing this list with those products in-development as information about these products is made available to Apple through discovery.

Masimo, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, products including the Masimo W1 and the Masimo W1 Charger, the Masimo Freedom and Masimo Freedom Charger, and the Masimo B1 and Masimo B1 Charger (collectively, the “Accused Products”) that embody the designs claimed in the Patents-in-Suit in violation of 35 U.S.C. § 271. On information and belief, the Masimo Freedom and Masimo B1 have the same rear design as the Masimo W1 and therefore infringe for the same reasons as the Masimo W1. On information and belief, the Masimo Freedom and Masimo B1 have the same charger as the Masimo W1 and therefore infringe for the same reasons as the Masimo W1 charger.

Apple reserves the right to amend this disclosure as additional information becomes available from Masimo during discovery and as further analysis is performed.

C. Claim Charts

Apple's Preliminary Infringement Contentions comprise the following charts, attached as Exhibits A-1 through D-3. The comparisons in Exhibits A-1 through D-3 depict the Accused Products' current designs. As of February 3, 2023, Masimo asserts that it has "redesigned" the Masimo W1 Watch (*see, e.g.* D.I. 58 at 5, 11), but, to-date, that assertion appears to be false. For example, on February 23, 2023, Masimo's webpage offering the Masimo W1 for sale depicted the purported "redesign." D.I. 67 at 2. However, Masimo fulfilled an order placed that same day with a Masimo W1 Watch embodying the original design—the same design depicted in Exhibits A-1 through D-3. *See id.* at 2-3. The same occurred for orders placed as recently as April 25, 2023. Accordingly, Apple has to-date been unable to obtain a Masimo W1 Watch embodying the purported "redesign" (or any design other than the Masimo W1's original design). If, however, during the course of discovery or otherwise, additional evidence becomes available related to Masimo's making, using, selling, and/or offering for sale in the United States, and/or importing into the United States any "redesigned" Masimo W1 Watch, Apple explicitly reserves the right to amend or supplement these Contentions accordingly.

Patent	Accused Product(s)	Exhibit	Description
D'279 Patent	Masimo W1 Watch, Masimo Freedom, and Masimo B1	A-1	Comparison of the claimed D'279 Patent design with the Masimo W1 Watch design
		A-2	Comparison of Apple Watch embodying the claimed D'279 Patent design with the Masimo W1 Watch design
		A-3	Comparison of the claimed D'279 Patent design with the Masimo W1 Watch design in light of the prior art
D'842 Patent		B-1	Comparison of the claimed D'842 Patent design with the Masimo W1 Watch design

Exhibit D

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,)	
)	
Plaintiff,)	
)	
v.	)	C.A. No. 22-1378-MN-JLH
)	
MASIMO CORPORATION and	)	JURY TRIAL DEMANDED
SOUND UNITED, LLC,)	
	)	CONFIDENTIAL-
Defendants.	)	ATTORNEYS' EYES ONLY
)	
<hr/>		
MASIMO CORPORATION and)	
CERCACOR LABORATORIES, INC.,)	
)	
Counter-Claimants,)	
)	
v.)	
)	
APPLE INC.,)	
)	
Counter-Defendant.)	

APPLE'S PRELIMINARY INFRINGEMENT CONTENTIONS

Pursuant to the Court's Scheduling Order (D.I. 92), Plaintiff Apple Inc. ("Apple") hereby serves its Preliminary Infringement Contentions on Defendants Masimo Corporation and Sound United, LLC (collectively, "Masimo").

Apple expressly reserves the right to amend these contentions as additional information becomes available during discovery and as further analysis is performed. Notably, Apple served Requests for Production ("RFPs") on Defendants on March 27, 2023, but Defendants have yet to produce any documents. For example, Apple's RFPs include requests for documents referring or relating to Defendant's design, development, testing, production, or manufacture of the Accused Products. Defendants have not yet produced any of this information.

A. Asserted Claims

Apple contends that Masimo, either alone or in conjunction with others, has infringed and continues to infringe, literally and/or under the doctrine of equivalents, the following claims of United States Patent Nos. 10,076,257 (the “257 Patent”); 10,627,783 (the “783 Patent”); 10,942,491 (the “491 Patent”); 10,987,054 (the “054 Patent”); 11,106,352 (the “352 Patent”); and 11,474,483 (the “483 Patent”) (collectively the “Patents-in-Suit”):

<u>Patent</u>	<u>Asserted Claims</u>
U.S. Patent No. 10,076,257	1, 2, 3, 4, 6, 7, 8, 10, 11, 12, 14 (35 U.S.C. § 271(a), (b), and (c))
U.S. Patent No. 10,627,783	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 (35 U.S.C. § 271(a), (b), and (c))
U.S. Patent No. 10,942,491	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 (35 U.S.C. § 271(a), (b), and (c))
U.S. Patent No. 10,987,054	1, 2, 3, 4, 5, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18 (35 U.S.C. § 271(a), (b), and (c))
U.S. Patent No. 11,106,352	1, 3, 5, 6, 9, 11, 13, 14, 17, 19, 21, 22 (35 U.S.C. § 271(a), (b), and (c))
U.S. Patent No. 11,474,483	1, 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 (35 U.S.C. § 271(a), (b), and (c))

B. Accused Products

The following list of Accused Products is based on information that Apple has at this stage of the litigation. Apple thus reserves the right to revise and to supplement this list as discovery progresses. Moreover, to the extent Defendants have products-in-development that include similar components and/or operate in a manner similar to the products identified below, Apple anticipates supplementing this list with those products in-development as information about these products is made available to Apple through discovery.

Apple accuses Defendants' W1 and its charger (collectively, the "W1") of infringing the claims of the '257, '783, '491, '054, '352, and '383 Patents as provided in the table below. That includes any purported re-designs of the W1, and any other products that include similar components and/or operate in a manner similar to the W1, including but not limited to the Freedom. Apple reserves the right to amend this disclosure as additional information becomes available during discovery and as further analysis is performed.

<u>Patent</u>	<u>Accused Product(s)</u>	<u>Asserted Claims</u>
U.S. Patent No. 10,076,257	W1	1, 2, 3, 4, 6, 7, 8, 10, 11, 12, 14 (35 U.S.C. § 271(a), (b), and (c)) (<i>See Ex. A</i>)
U.S. Patent No. 10,627,783	W1	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 (35 U.S.C. § 271(a), (b), and (c)) (<i>See Ex. B</i>)
U.S. Patent No. 10,942,491	W1	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 (35 U.S.C. § 271(a), (b), and (c)) (<i>See Ex. C</i>)
U.S. Patent No. 10,987,054	W1	1, 2, 3, 4, 5, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18 (35 U.S.C. § 271(a), (b), and (c)) (<i>See Ex. D</i>)
U.S. Patent No. 11,106,352	W1	1, 3, 5, 6, 9, 11, 13, 14, 17, 19, 21, 22 (35 U.S.C. § 271(a), (b), and (c)) (<i>See Ex. E</i>)
U.S. Patent No. 11,474,483	W1	1, 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 (35 U.S.C. § 271(a), (b), and (c)) (<i>See Ex. F</i>)

Exhibit E

21 June 2023
Masimo Freedom Smart Health Watch & Band – Masimo Consumer
<https://www.masimoconsumer.com/>

PURCHASE YOUR W1 TODAY & GET \$400 OFF FREEDOM SMARTWATCH™ >



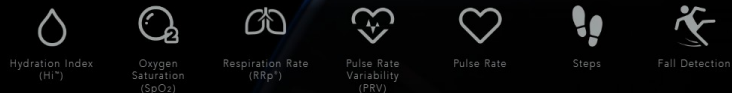
The Future of Wearables Technology

MASIMO FREEDOM™ Smart Health Watch & Band

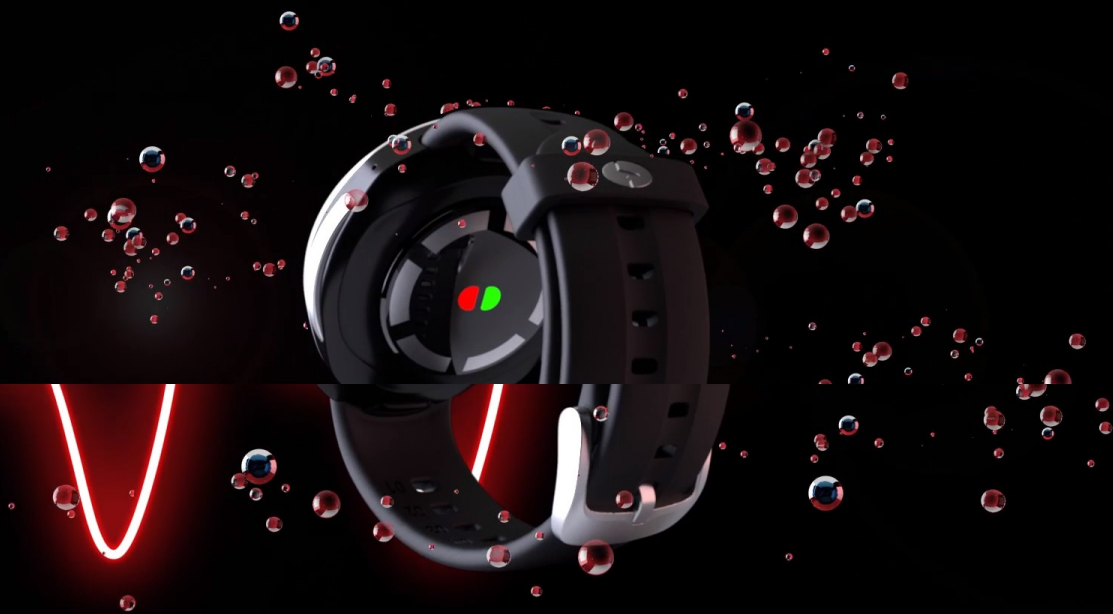
Reserve Yours

Place your deposit today and apply to the style of your choice at launch

By completing your reservation, you are accepting the [Reservation Terms](#) and [Privacy Policy](#).



Masimo Freedom Smart Health Watch and Band are not cleared for use in medical applications in the U.S.



Continuous Matters. Accuracy Matters. Privacy Matters. Health Matters.

Accurate personal health tracking of your vitals including SpO₂, pulse rate and relative hydration along with recovery and sleep indexes, from a brand that has been protecting people in hospitals as a technology leader for nearly 30 years.

21 June 2023
Masimo Freedom Smart Health Watch & Band – Masimo Consumer
<https://www.masimoconsumer.com/>

Get \$400 off Your Future Freedom Purchase

MASIMO
W1

If you can't wait to discover Masimo's advanced biosensing technology, the Masimo W1 Advanced Health Tracking Watch is available for purchase today. While the Masimo Freedom smartwatch is set to release in Fall 2023, if you purchase a Masimo W1 watch today, you'll lock in a \$400 discount off of your eventual Masimo Freedom Watch purchase.

Shop Masimo W1*



Introducing Masimo Freedom Band™ HEALTH BAND

The Masimo Freedom Band utilizes the same patented sensor technology as in the Masimo W1 and Freedom smartwatches. It provides the same continuous, precision accuracy based on Masimo SET* technology in an ultra-comfortable uncompromising design. Masimo Freedom Band is a perfect complement to the Masimo Freedom smartwatch. Whether you choose to buy the entire family of Masimo wearables or just the Masimo Freedom Band, your path to better health starts here.

Reserve yours today and apply to the product of your choice at launch. \$100 deposit applies to whichever product you prefer, band or watch.



Complete Health

Remarkably insightful. Highly personal. Especially accurate.

The Masimo Health App provides complete health tracking that empowers you to take control of your personal wellness. Whether you choose Masimo Freedom smartwatch or Masimo Freedom Band as your next personal health investment, our wearable technology devices integrate seamlessly with an app experience built to help you understand your personal health data and provide guidance on how you can improve your life each day.

21 June 2023

Masimo Freedom Smart Health Watch & Band – Masimo Consumer
<https://www.masimoconsumer.com/>

Health

Precision accuracy in luxury form, Masimo Freedom smartwatch provides unparalleled depth and breadth in data, such as real-time health indicators like pulse rate and respiration rate, and unique scores and indexes such as Hydration Index, and Stress Index. (Available within app experience for Masimo Freedom Band.)

Sleep

A comprehensive view of your sleep that you can count on. Sleep insights are personalized based on each person's unique sleep trends and profile index tracking. Both Masimo Freedom smartwatch and Band feature our innovative sensor technology - which means you're able to rely on real-time accuracy day and night.



Activity

Supporting your pursuit of better health, Masimo wearable technologies maintain accuracy and track your personal health data. No matter how intense your activity, you'll enjoy an especially accurate read-out regardless of movement ² or skin color ³ that provides you with deeper knowledge of your own body.

Control Your Data with Privacy Mode

With the flick of a switch, Masimo Freedom's Privacy Mode allows you to control the sharing of your personal data so that your data stays private within the watch.

21 June 2023

Masimo Freedom Smart Health Watch & Band – Masimo Consumer
<https://www.masimoconsumer.com/>



1. This is a Pre-Production Prototype and final design, specifications, and features, including Watch and App interface, are subject to change. Reservation Terms and Conditions apply. 2. Shah N., Rageswamy H.B., Govindugari K., Estanol L. *J Clin Anesth*. 2012 Aug;24(5):385-91. 3. Barker SJ, Wilson WC. Racial effects on Masimo pulse oximetry: a laboratory study. *J Clin Monit Comput*. 12 Nov 2022. doi.org/10.1007/s10877-022-00927-w. 4. Production and delivery dates are only projections and subject to change. Reservation Terms and Conditions apply. 5. Price is for United States only and is subject to change based on final design, specifications, and features. This price does not include any applicable sales, use, or other applicable governmental taxes nor any shipping charges. The Reservation Terms and Conditions apply.

Sign up to our newsletter

☐ I agree to the privacy policy

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Contact Us: freedomlaunch@masimoconsumer.com

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*Terms and Conditions Apply

Exhibit F

S&P Global

Market Intelligence

Masimo Corporation NasdaqGS:MASI

Analyst/Investor Day

Tuesday, December 13, 2022 3:30 PM GMT

Presentation

Eli Kammerman

Vice President of Business Development & Investor Relations

Good morning. I'm Eli Kammerman, VP of Investor Relations here at Masimo. I'd like to welcome you all to our 2022 Investor Day today. We've got a really full action-packed and information-rich day planned for you. We think you'll get a lot out of it, and it will definitely will have been worth your while to come out here to see things that people have not seen before and that they won't see on the webcast.

Before we begin, let me cover a couple of important things. Firstly, the restrooms. The restrooms are through that exit door on the right and just follow the wall around to the right.

Secondly, you probably saw that we have breakfast right outside these doors and coffee is in the back.

Here's our agenda for today. As you can see, we're going to have some presentations to start. We've got a coffee break at 9 o'clock. You'll come back for some more presentations as well as a physician panel, and then we'll break for a combination of lunch and rotations through demonstrations.

We think you'll really get a lot out of that. You'll see many of the new products we've been talking about for a long time, and you'll be able to ask questions of our subject matter experts about the products. Then we'll come back for some more presentations and a wrap up with open floor Q&A.

For today, we will be discussing forecasts and projections along the lines of what are described in our safe harbor statement. Please keep in mind that these forecasts and projections involve risks and uncertainties, and these are further described in our SEC filings.

In addition, we will also be discussing non-GAAP financial figures, the definitions for these non-GAAP figures are also contained in our filings with the SEC.

Now I would like to introduce our founder, Chairman and CEO, Joe Kiani.

Joseph E. Kiani

Founder, CEO & Chairman

Good morning. Thank you all for coming. Really appreciate you making the time to come here. We're excited to have to stay with you I know it's been a long time coming, especially since we announced the acquisition of Sound United. But I hope you believe it was worthwhile. I have one thing we're doing differently here that I want to tell you about today, we're going to show you a little bit about some future stuff. Things within the next year, we're not going to go beyond that, but still, it's not our style. We'd rather just introduce the product, then talk about it. But I think given that there was some nervousness about where we're going, we decided maybe it was the right thing to do to kind of change how we do things a bit.

I started Masimo, gosh, February, 1989, almost 34 years ago. And our mission really from almost the very beginning, was to improve patient outcome and reduce cost of care by taking noninvasive monitoring to new sites and applications. It's about to come to full circle. It's about to be totally envisioned. I know some of you are very clever. You saw some of our filings for trademarks like STORK and you saw some of the videos we just showed you today, and you put some of it together. But there's a lot more there's a lot more. But that mission we have accomplished to a great degree, but we've saved numerous lives. We've improved numerous lives.

I don't know, probably tens of thousands of babies no longer a blind because of SET pulse oximetry. And with hemoglobin, we've done so much already and so much more to go. But the stuff we're about to do now, it's really going to help us just take things to a new level, the degree of lives will touch. The amount of hopefully lives will save, it will be tremendous. And we couldn't have done it without a decade ago putting into motion the products you're going to be seeing today and in the next 12 months and beyond. And we couldn't have done it, as you'll see, without bringing in the Sound United team to help us.

We have -- we were engineers at the time when we started Masimo. We were good at math, we were good at adaptive filters and signal processing. But we've immersed ourselves now. We are immersed engineers, and we understand the problems of our customers, whether it was overburdened clinicians, whether it was poor handoff communication, whether it's recognizing that opioid-induced respiratory depression is just not something that happens in hospitals. it happens at homes.

Through its continuous and accurate monitoring, STORK will give babies a voice by providing actionable data to family and parents and healthcare professionals alike. Alongside the STORK bootie and the camera and the hub, which you'll see later in the vignette in the lobby is a robust application experience, which will work within our broader Masimo Software Healthcare Solution. The STORK app will allow parents to have universal access to their baby's videos, sound, vitals.

The Stork gap is geared to not only serve as a health hub itself, but also to empower parents through positive reinforcement, a video and a knowledge library and through its connected software ecosystem allow parents to share the greatest and cutest memories on social media. We've created this positioning video for STORK to give you a little bit of insight on how we will bring the product to market. This is not a commercial. This is a positioning video. This is all about creating peace of mind and bringing hospital quality monitoring to the home.

[Presentation]

Unknown Executive

I hope that gives you a little taste of where we're taking some of this messaging with the consumer. And I hope it gives you an idea of how we plan to win in that space and take the hospital into the home.

Our third pillar -- sorry our fourth pillar is our omnichannel go-to-market. From telling that great compelling brand story, which we started to see some initial concepts on there now to targeting the very specific channel base that these types of products represent, we have a very focused approach and opportunity to win in the baby monitor market.

We will also make sure that we are using and leveraging one of our strongest muscles, which is our D2C business. We have a robust D2C team within Masimo Consumer and we will do our utmost to drive consumers for education, but to also compel them to buy online through our own channels. And then there's winning on the shop floor. We take Masimo to the shop floor for the first time in this case and training, empowering and educating through our team of global brand activation team members and providing best-in-class merchandising solutions, winning at the baby registry are keys to our success as we roll out Masimo's first consumer healthcare product in the baby monitor market. Super exciting day for us today to be sharing this product with you all.

Pivoting to our next tranche of launches. We're going to provide here a brief look into our wearables and hearables outlook, again, with many of these products launching in FY '23. We recently entered the wearables category with our first health watch, the W1. In this segment, we will continue to leverage our best-in-class sensing capabilities across a variety of form factors to provide incredible insights through continuous and accurate monitoring. This foray into wearables is an important step in our consumer health journey as we -- as the data we track from these wearables will be invaluable going forward in our connected software ecosystem at home.

We are also excited to discuss the opportunity in hearables, \$85 billion market, combining the traditional over-ear, in-ear, ear buds and headphones from today, along with our hearing enhancement products and opportunity. Here, we will leverage our heritage in providing great sound through our branded portfolio of premium and luxury products together with our Masimo Adaptive Acoustic Technology, which we'll be talking about here in a minute. All of this to create a world-class listening experience for our consumers.

Our best-in-class health sensor for wearables currently being deployed in the W1 is launching in the premium consumer watch segment format with Freedom and B1. While the smart watch market is crowded, we feel that the watch with its health and wellness focus will open doors to new consumers. Rather than health as an afterthought, the fidelity of the monitoring will allow us to generate new insights, alerts and indexes the market has yet to see.

Our wearables will set a new standard for accurate and continuous monitoring as showcased in the W1. While adding feature sets that modern day consumers expect, such as LTE connectivity, premium design, form factors for sleep and innovative features, as Joe alluded to, with hydration index, which are made possible by the incredible technology in our sensors.

And finally, although we are still too early to share marketing concepts, we've identified key consumer segments that rely on the utmost accuracy in their continued health data. As we think about the target audience for Freedom, it's important that we start close to our DNA by targeting the hospital ecosystem via the W1 and expanding our scope towards health and wellness gatekeepers, fitness coaches, influencers, partners like managed care facilities.

With this approach, we can provide the right hardware and subscription solution to each of the key mass market demographics. These groups represent a large subset of the U.S. population. It also represents a large subset of the global population, whose needs are not met by current offerings today. For these groups, accurate and continuous monitoring matters. And when it comes to improving performance, we're just maintaining an accurate representation of their health any given day.

Exhibit G

From: [Jared Bunker](#)
To: [Carson Olscheski](#); [Benjamin Luehrs](#)
Cc: [Knobbe.MasimoDE](#); [Palapura, Bindu A.](#); [Jack Phillips](#); [Greenfield, Leon](#); [Milici, Jennifer](#); [Kerri-Ann Limbeek](#); [Megan C. Haney](#); [Vote, Dominic](#); [Ford, Mark](#); [Jordan Malz](#); [Peter Magic](#); [Megan C. Haney](#); [Apple Masimo Service](#); [Moore, David E.](#)
Subject: [Ext] RE: Apple v. Masimo (C.A. Nos. 1377/1378) - Letter to Bunker re Discovery Responses
Date: Monday, June 5, 2023 3:16:54 PM

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Carson and Ben:

I write to clarify a few points in your June 5 email regarding our meet and confer on June 2, as well as to follow up on (a) the privilege log proposal, (b) the question regarding radr/radar documents, (c) the proposal regarding responding to deficiency letters, and (d) the proposed ESI order. (We'll write separately regarding Apple's responses to Defendants' first set of discovery requests.)

Points of Clarification from your June 5 email.

- We do not currently have physical samples of the W1 with the wave electrode, the Freedom Watch, or the Freedom Band, but we are collecting prototypes for Apple's inspection. We will investigate what Mr. Kiani wore at trial.
- Regarding its review of interrogatory responses, we agree to supplement Masimo's response to Apple's Interrogatory No. 4 (from the 1377 Case) based on interpreting "Asserted Patents" to also include the patents Apple is asserting in the 1378 Case. If there are other interrogatories for which Apple believes it is entitled to a supplement, please identify them.

Privilege Log. We have prepared a modified proposal based on our discussions. We propose the parties agree that privileged communications dated after January 9, 2020 (the day the CDCA complaint was filed) need not be logged on a privilege log if the communication (a) is with outside counsel; (b) relates solely to work on the ITC or CDCA case; or (c) is a redaction in a document and the unredacted portions of the document reasonably provide the privilege basis for the communication.

Radr/Radar Documents. Apple stated that it would provide its position on our question regarding responsive documents from Apple's radar system by this Friday, June 9. Please let us know promptly if our understanding is incorrect.

Proposal regarding responding to Deficiency Letters and Conference of Counsel. Apple agreed with Masimo's proposal that the parties endeavor to respond to deficiency letters within 7 days of receiving the letters and meeting and conferring within 10 days of receiving the letters.

ESI Order.

- Email Requests. Masimo proposed 30 custodians and 30 terms. Apple said it could not agree, and proposed 10 custodians and 10 terms. We maintain that 30 custodians and 30

terms is reasonable and proportional in these cases, but if it would resolve the dispute, Masimo would be willing to agree to 20 custodians and 20 terms.

- Text and Chat Requests. Masimo maintains its proposal for text and chat requests. We understand Apple does not agree to any request for the production of texts or chats as outlined by Masimo.
- Production of images in PDF form. We explained why, in our view, production of documents with images in PDF form is burdensome on the receiving party. We proposed the parties agree that all document productions include images in TIFF format. Apple said it would provide its position. Please provide Apple's position by Friday, June 9.

Sincerely,
Jared

Jared Bunker
Partner
949-721-2957 Direct
Knobbe Martens

From: Carson Olsheski <COlsheski@desmaraisllp.com>

Sent: Monday, June 5, 2023 6:38 AM

To: Jared Bunker <Jared.Bunker@knobbe.com>; Benjamin Luehrs <BLuehrs@desmaraisllp.com>; Kendall Loebbaka <Kendall.Loebbaka@knobbe.com>

Cc: Knobbe.MasimoDE <Knobbe.MasimoDE@knobbe.com>; Palapura, Bindu A. <bpalapura@potteranderson.com>; Jack Phillips <JCP@PMHDELaw.com>; Greenfield, Leon <Leon.Greenfield@wilmerhale.com>; Milici, Jennifer <Jennifer.Milici@wilmerhale.com>; Kerri-Ann Limbeek <KLimbeek@desmaraisllp.com>; Megan C. Haney <mch@PMHDELaw.com>; Vote, Dominic <Dominic.Vote@wilmerhale.com>; Ford, Mark <Mark.Ford@wilmerhale.com>; Jordan Malz <JMalz@desmaraisllp.com>; Peter Magic <PMagic@desmaraisllp.com>; Megan C. Haney <mch@PMHDELaw.com>; Apple Masimo Service <AppleMasimoService@desmaraisllp.com>; Moore, David E. <dmoore@potteranderson.com>

Subject: RE: Apple v. Masimo (C.A. Nos. 1377/1378) - Letter to Bunker re Discovery Responses

Jared, Kendall

Thank you for the productive conferral on Friday. I write to memorialize a few items that we discussed:

- Masimo agrees to produce responsive discovery regarding Masimo's alleged redesign, Freedom, and B1/Band.
- Masimo does not currently have a physical sample of any of those products* available for inspection or production.
- Masimo will review its interrogatory responses, and get back to us to confirm it will supplement its responses such that they apply to all Accused Products, regardless of

which case the interrogatory was initially propounded for.

- Apple does not agree that the burden of logging purportedly privileged communications dated after the parties' CDCA case was filed outweighs the benefits
- Consistent with Apple's May 26 letter:
 - Masimo agrees to produce information in response to Apple's Interrogatory 2 (served February 15, 2023) related to Apple Watch and its charger;
 - Masimo withdraws its objection Apple identified concerning attempts to modify and designing around;
 - Masimo does not intend to rely on an opinion of counsel defense;
 - Apple's articulations related to RFP Nos. 3, 9, 15, 16, 21, and 22 are correct; and
 - Masimo agrees to produce responsive information with the full scope of RFP 19 subject to Apple's limitation of the phrase "subject matter of the Asserted Patents" to "Asserted Patents";
 - Masimo agrees to produce three samples of W1; and
 - Masimo agrees to provide information responsive to RFP No. 27.

Please let us know promptly if Masimo wishes to supplement or clarify any of these positions.

* We understand that Mr. Kiani wore the Freedom to the CDCA trial. Please confirm that Masimo contends that neither that unit, nor any others like it, are available for inspection.

Carson Olsheski
Desmarais LLP
230 Park Avenue
New York, NY 10169
212-808-2911 | direct

From: Jared Bunker <Jared.Bunker@knobbe.com>

Sent: Wednesday, May 31, 2023 11:37 AM

To: Carson Olsheski <COlsheski@desmaraisllp.com>; Benjamin Luehrs <BLuehrs@desmaraisllp.com>

Cc: Knobbe.MasimoDE <Knobbe.MasimoDE@knobbe.com>; Palapura, Bindu A.

<bpalapura@potteranderson.com>; Jack Phillips <JCP@PMHDELaw.com>; Greenfield, Leon

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Limbeek <KLimbeek@desmaraisllp.com>; Megan C. Haney <mch@PMHDELaw.com>; Vote, Dominic

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<JMalz@desmaraisllp.com>; Peter Magic <PMagic@desmaraisllp.com>; Megan C. Haney

<mch@PMHDELaw.com>; Apple Masimo Service <AppleMasimoService@desmaraisllp.com>;

Moore, David E. <dmoore@potteranderson.com>

Subject: [Ext] RE: Apple v. Masimo (C.A. Nos. 1377/1378) - Letter to Bunker re Discovery Responses

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Exhibit H



PROFESSIONAL HEALTH

CONSUMER HEALTH

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PRODUCTS ▾ WHY MASIMO ▾ SUPPORT ▾

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Masimo W1™ - Advanced Health Tracking Watch

⋮



Masimo W1™

Advanced Health Tracking Watch

★★★★☆ 3 Reviews

\$499.00 3-year warranty

Masimo W1 is a comfortable and convenient wearable device that continuously tracks key health data.

Select Your Personal SafetyNet Service Membership

Monthly ☒ Annually ☐

Basic	Advanced
\$7.99	\$18.99
per month	per month
See membership details	See membership details
CHOOSE	CHOOSE

Add to Cart

Health and Wellness On the Wrist



The first of its kind, the Masimo W1 offers accurate, continuous health data and actionable health insights –

breakthrough advances have

allowed Masimo, the makers of clinically proven SET® pulse oximetry, to miniaturize its monitoring technology and integrate it into a watch.



Health Data That's Always There

Giving you the power to access your health data immediately

The Watch You Sleep With

True 24/7 continuous health data that tracks with your activities day and night, so nothing is missed



Keep Pace and Reach New Heights

Optimize your performance and get in tune with how your body reacts

Exhibit I

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - SOUTHERN DIVISION
HONORABLE JAMES V. SELNA, U.S. DISTRICT JUDGE

MASIMO CORPORATION, et al.,)	
)	
Plaintiffs,	)	Certified Transcript
)	
vs.	)	Case No.
	)	SACV-20-00048-JVS
APPLE INC.,)	
Defendant.)	
	)	DAY 2, VOLUME II

U N D E R S E A L

REPORTER'S TRANSCRIPT OF PROCEEDINGS
JURY TRIAL
WEDNESDAY, APRIL 5, 2023
1:21 P.M.
SANTA ANA, CALIFORNIA

DEBBIE HINO-SPAAN, CSR 7953, CRR
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ALSO PRESENT:

JOE KIANI
Corporate Representative (Masimo and Cercacor)

DIEDRE CALDBECK
Corporate Representative (Apple)

I N D E X**WITNESSES****PAGE****JOE KIANI, CALLED BY THE PLAINTIFFS**

Direct Examination by Mr. Re

6

Cross-Examination by Mr. Mueller

90

(Sealed proceedings from pages 72 to 89.)

EXHIBITS**EXHIBIT****IN
EVIDENCE****WITHDRAWN
OR
REJECTED**

1847

17

1344

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831

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2997

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P-0018

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1 A Oh, as Radius PPG, the finger version of it.

2 Q Now, when you said "this," you pointed to your wrist?

3 A Sorry. This is a new version. Yes, SR W1.

4 Q W1 is the physical exhibit of 0110 that we introduced

02:55PM 5 earlier?

6 A Yes, this thing (indicating).

7 Q I'd like you to take a look at Exhibit 1363 and identify
8 that for the record.

9 A Yes. That's a presentation regarding Freedom, which is

02:55PM 10 this guy, in August 2022.

11 MR. RE: Your Honor, I'd like to move into admission
12 Exhibit 1363.

13 MR. MUELLER: No objection, Your Honor.

14 THE COURT: 1363 will be received.

02:55PM 15 **(Exhibit Number 1363 received.)**

16 Q BY MR. RE: Could you turn to the third page, ending in
17 368, and explain what is -- what is this 368?

18 A The one on the screen is the rose-color version of W1.
19 This is the black one.

02:56PM 20 Q The third page -- I thought we had more. Okay.

21 And could you turn to the page ending in 89 --
22 page 89, ending in 454. And explain what this is?

23 A Yeah. That's a series of the Freedom devices. It's on --
24 I think it's 1370.

02:56PM 25 Q I must have misread it because it's a typo on my sheet.

Exhibit J



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Masimo Corp

March 24 · 🌐



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Our brand partnership with Masimo Consumer was taken to a new level at the 2023 BNP Paribas Open. Premiering the Masimo W1 watch with Hydration sensing and debuting the new Masimo Freedom Smartwatch, attendees got to experience the brand firsthand like never before!

[See less](#)

Exhibit K



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Masimo unveils Freedom health-tracking smartwatch

MARCH 28, 2023 BY SEAN WHOOLEY

[f](#)
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[in](#)
[+](#)

Masimo (Nasdaq:MASI) announced today that it unveiled the Freedom smartwatch for continuous health tracking.

Irvine, California-based Masimo says it designed its Freedom smartwatch to "revolutionize the wearable technology industry." Along with continuous health tracking, it features novel hardware for reducing radiation and freeing users from privacy infringement.



The company said in a news release that the technology builds upon the Masimo W1 advanced biosensing watch. Freedom leverages a state-of-the-art sensor and digital signal processing technology. It provides continuous, accurate, and reliable readings of key health data. That includes arterial blood oxygen saturation (SpO₂), hydration index (HI), pulse rate, heart rate and respiration rate.

Freedom integrates Masimo's health-tracking technology with Bluetooth, Wi-Fi and LTE connectivity. This enables the everyday conveniences of texting, calling, music and third-party app compatibility. Masimo Freedom also features a physical privacy switch that instantly stops all sharing data beyond the device. That includes user data, as well as microphone, location, and metadata.

"We believe that this groundbreaking new product will revolutionize wearable technology and health tracking," said Masimo founder and CEO Joe Kiani. "We are allowing people to take control of their health with continuous and accurate actionable biosensing information along with the convenience of being connected, but without compromising their freedom."

More about the Masimo Freedom

Masimo Freedom also utilizes technology based on Masimo SET pulse oximetry. It optimizes the capture of health data from the wrist.

The company also intends to introduce a sleek, screenless band built on innovations for W1 and Freedom. Masimo designed the band to work in tandem and synchronize with Freedom, allowing a user to wear one while charging the other. This creates a 24/7 continuous wear ecosystem, maximizing health tracking abilities all day.

Masimo said consumers can pre-order Freedom now with a fully refundable \$100 deposit. It expects shipping to begin this fall, while shipping for W1 remains underway. [Masimo also expects to have its band ready for sale this summer.](#)

The company continues to make waves in the health monitoring space. In January, it [extended a partnership with Philips](#) to augment patient monitoring capabilities at home with W1. The advanced health-tracking watch [first launched to early adopters in May 2022](#). It holds CE mark approval while FDA clearance is pending.

This system represents part of Masimo's recently announced [plan to turn home entertainment systems into health hubs](#).

FILED UNDER: BUSINESS/FINANCIAL NEWS, DIAGNOSTICS, DIGITAL HEALTH, FEATURED, HEALTH TECHNOLOGY, NEWS, WELL, PATIENT MONITORING, SOFTWARE / IT
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Sean Whooley, Mass Device, 2022

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Masimo launches health-tracking watch for consumers
Sean Whooley, Mass Device, 2022

Fitbit unveils array of new apps from health partners
Sarah Faulkner, Drug Delivery Business, 2016


Masimo launches Stork at-home baby monitoring system
Sean Whooley, Mass Device, 2023

Quantifying the Contribution of Track Changes to Interannual Variations of North Atlantic Intense Hurricanes ☺
Jun Lu, Liguang Wu & Shunwu Zhou, Special Issue on Climate Change and Variability of Tropical Cyclone Activity, 2022

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Sandborn W J et al., The Lancet, 2023; Provided by
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Ypsomed announced plans to expand its offerings of digital health solutions for chronic disease therapy together with S3 Connected Health. Dublin, Ireland-based S3 Connected Health specializes as a digital health partner for life science companies. This partnership allows Ypsomed's biopharma customers to quickly launch therapy-specific digital patient solutions. It enables therapy management support for. [...] [Read more](#)
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About Sean Whooley

Sean Whooley is an associate editor who mainly produces work for MassDevice, Medical Design & Outsourcing and Drug Delivery Business News. He received a bachelor's degree in multiplatform journalism from the University of Maryland, College Park. You can connect with him on [LinkedIn](#) or email him at swhooley@wtwhmedia.com.



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